

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KAHLIG AUTO GROUP, §
§
Plaintiff, §
§
vs. § CIVIL ACTION NO. 5:19-CV-1315
AFFILIATED FM INSURANCE §
COMPANY, §
§
Defendant. §
§

**DEFENDANT AFFILIATED FM
INSURANCE COMPANY'S NOTICE OF REMOVAL**

Defendant Affiliated FM Insurance Company (“Affiliated FM”) files this Notice of Removal under 28 U.S.C. §§ 1332, 1441, and 1446 and states:

**I.
INTRODUCTION**

1. Plaintiff Kahlig Auto Group (“Plaintiff”) commenced this lawsuit on September 23, 2019 by filing Plaintiff’s Original Petition (“Petition”) in the 407th District Court of Bexar County, Texas - Case No. 2019CI20051.

2. This lawsuit arises out of Plaintiff’s claim for coverage under an insurance policy issued by Affiliated FM. Plaintiff’s Original Petition, which includes a jury demand, seeks declaratory judgment and alleges breach of contract and violations of the Texas Insurance Code against Affiliated FM.

3. Affiliated FM was served with Plaintiff’s Petition on October 9, 2019. Affiliated FM thus files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

II.
BASIS FOR REMOVAL

4. Venue is proper in this District under 28 U.S.C. § 1441(a) because the state court where the action is pending is located in this District.

5. Removal is proper under 28 U.S.C. § 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000, exclusive of interest, costs and attorneys' fees. These two conditions are satisfied in this matter.

A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiff and Defendant

6. Plaintiff, Kahlig Auto Group, is a corporation organized under the laws of the State of Texas with its principal place of business in Bexar County, Texas, and is thus a citizen of Texas for diversity jurisdiction purposes.

7. Defendant Affiliated FM is an insurance company incorporated in the State of Rhode Island with its principal place of business in Rhode Island and is thus a citizen of Rhode Island for diversity jurisdiction purposes.

8. Complete diversity of citizenship accordingly exists between Plaintiff on the one hand and Defendant Affiliated FM on the other hand (now and on the date Plaintiff filed this lawsuit).

B. Removal is Proper Because Plaintiff's Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000.

9. It is facially apparent that Plaintiff's claims in this suit exceed \$75,000, exclusive of interest, costs, and attorneys' fees. Therefore, Defendant's burden to establish the amount in controversy exceeds this Court's jurisdictional threshold is satisfied.¹

¹ *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

10. In its Petition, Plaintiff states it “seeks monetary relief over \$1,000,000,” pursuant to Rule 47 of the Texas Rules of Civil Procedure.² It is thus facially apparent that Plaintiff’s claim exceeds this Court’s jurisdictional threshold of \$75,000.

III.
CONCLUSION

11. As required by 28 U.S.C. Section 1446(a), a copy of each of the following are attached to (or filed with) this Notice of Removal:

- a. the docket sheet in the state court action as **Exhibit A**; and
- b. all process, pleadings, and orders filed, issued, or entered in the state court action (as separate attachments arranged in chronological order according to state court filing date) as **Exhibit B**.

12. Defendant also attaches Defendant Affiliated FM Insurance Company’s Rule 7.1 Disclosure Statement as **Exhibit C**.

13. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal will be filed with the clerk of the District Clerk of Bexar County, Texas promptly after the filing of this Notice of Removal.

14. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

WHEREFORE, Defendant Affiliated FM Insurance Company requests that this action be removed from the 407th Judicial District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, and that this Court enter such further orders as may be necessary and appropriate.

² Plaintiff’s Petition at pg. 2.

Respectfully submitted,

By: /s/ Lindsey P. Bruning

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**COUNSEL FOR DEFENDANT AFFILIATED
FM INSURANCE COMPANY**

CERTIFICATE OF SERVICE

On this 7th day of November 2019, I served a true and correct copy of **DEFENDANT AFFILIATED FM INSURANCE COMPANY'S NOTICE OF REMOVAL** upon all known counsel of record via electronic filing.

/s/ Lindsey P. Bruning
Lindsey P. Bruning